

**DISTRICT OF COLUMBIA**  
**DOH Office of Adjudication and Hearings**  
825 North Capitol Street N.E., Suite 5100  
Washington D.C. 20002

DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH  
Petitioner,

v.

JOHN JONES  
Respondent

Case No.: I-00-60115

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**FINAL ORDER**

**I. Introduction**

On May 3, 2001, the Government personally served a Notice of Infraction (No. 00-60115) upon Respondent John Jones charging him with practicing dentistry without a license in violation of D.C. Code § 2-3310.1. The Notice of Infraction alleged that the infraction took place on the date of service at 411 8<sup>th</sup> Street, S.E., and sought a fine of \$500.00.

On May 18, 2001, Respondent filed a timely plea of Admit with Explanation, together with a request for suspension or reduction of the fine. On May 29, 2001, the Government responded to that plea, opposing any reduction in the fine.

## **II. Summary of the Evidence**

Respondent states that he maintains an office in Sterling Virginia. He states that on May 3, 2001, he met a former patient at 411 8<sup>th</sup> Street S.E. to give her a new orthodontic retainer. According to Respondent, he had taken impressions for the new retainer at his Virginia office, but the patient was unable to return to that office to pick up the retainer when it was ready. He argues that he simply gave the patient the retainer on May 3 and performed no adjustments or modifications to it at that time.

The Government replies that Respondent's professional activities within the District of Columbia have been more extensive than the single incident he recounts. The investigator who issued the Notice of Infraction states that he made several telephone calls to Respondent's Virginia office during which the receptionist stated that Respondent was seeing patients in the District of Columbia on Thursdays. The investigator also states that he telephoned Respondent's District of Columbia office on March 3, 2001, and that the person answering the telephone advised him that Respondent primarily works in Virginia, but that he came into the District of Columbia office once a month, on Thursdays. The investigator states that he visited Respondent's office at 441 8<sup>th</sup> Street, S.E. on May 3, 2001 and that, upon his arrival, the receptionist told him that Respondent was "with a patient." The investigator also alleges that a woman who was present in the waiting area when he arrived told him that she was Respondent's patient. The same woman left the office with a new retainer on her upper teeth after seeing Respondent. The investigator alleges that Respondent's license to practice dentistry in the District of Columbia expired in 1997.

### **III. Findings of Fact**

1. By his plea of Admit with Explanation, Respondent has admitted violating D.C. Code § 2-3310.1 on May 3, 2001.
2. Respondent did not have a valid, current license to practice dentistry in the District of Columbia on May 3, 2001.
3. Respondent maintains an office for the practice of dentistry in the District of Columbia, located at 441 8<sup>th</sup> Street, S.E. (the “8<sup>th</sup> Street office”).
4. On May 3, 2001, Respondent provided a retainer to a patient at the 8<sup>th</sup> Street office.
5. Respondent also treated at least one other dental patient at the 8<sup>th</sup> Street office on May 3, 2001.
6. Based upon the statements of the persons answering the telephones at both his Virginia and District of Columbia offices, I find that Respondent has treated other dental patients on other occasions at the 8<sup>th</sup> Street office.

### **IV. Conclusions of Law**

1. Respondent’s plea of Admit with Explanation establishes that he violated D.C. Code § 2-3310.1 on May 3, 2001.
2. Section 2-3310.1 forbids the practice of a health occupation within the District of Columbia without a current license. Dentistry is included within the definition of

a health occupation. D.C. Code §§ 2-3301.1(7), 2-3301.2(5). Furnishing a retainer to a patient within the District of Columbia falls within the definition of “practice of dentistry,” even if the practitioner does not fit, adjust or do anything else to the retainer. *See* D.C. Code § 2-3301.2(5)(G) (“practice of dentistry” includes “*furnishing . . . [or] supply . . . of any . . . corrective device, or other structure designed or constructed . . . as an aid in the treatment of the malposition . . . of a tooth or teeth.*”) (Emphasis added.) Respondent, therefore, was required to have a license to practice dentistry when he gave his patient the retainer on May 3, 2001.

3. Respondent’s violation of §2-3310.1 was not the isolated event implied in his explanation. Although the main location of his practice is in Virginia, he routinely saw patients within the District of Columbia, even though he was not licensed to practice here.
4. By failing to keep his District of Columbia license current, Respondent has avoided paying the fees that all other licensed dentists must pay and has sought to avoid regulation and oversight by the Board of Dentistry, which regulates the practice of dentistry in order to protect public health and safety.
5. A fine of \$500.00 is authorized for violations of §2-3310.1. 16 DCMR 3212.1(n). On this record, no reduction of that fine is appropriate. Respondent’s effort to minimize his unlicensed practice indicates that he has not accepted responsibility for the violation. Moreover, Respondent has provided no explanation for his failure to obtain a District of Columbia license.

**V. Order**

Based upon the foregoing findings of fact and conclusions of law, it is, this \_\_\_\_\_ day of \_\_\_\_\_, 2001:

**ORDERED**, that Respondent shall pay a total of **FIVE HUNDRED DOLLARS (\$500.00)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715); and it is further

**ORDERED**, that, if Respondent fails to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order. D.C. Code § 6-2713(i)(1), as amended by the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, D.C. Law 13-281, effective April 27, 2001; and it is further

**ORDERED**, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Code § 6-2713(f), the placement of a lien on real and personal property owned by Respondent that may be found in the District of Columbia pursuant to D.C. Code § 6-2713(i), and the sealing of Respondent's business premises or work sites pursuant to D.C. Code § 6-2703(b)(6).

/s/ **6-5-01**

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John P. Dean  
Administrative Judge